

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION – CINCINNATI

UNITED STATES OF AMERICA,	:	Case No. 1:23-cv-254
	:	
Plaintiff,	:	Judge Matthew W. McFarland
	:	
v.	:	
	:	
VIRGINIA WAGNER, et al.,	:	
	:	
Defendants.	:	

ORDER DENYING PLAINTIFF’S MOTION TO STRIKE (Doc. 16)

This matter is before the Court on Plaintiff’s Motion to Strike Defendant Wagner’s Affirmative Defenses (Doc. 16). Defendant Wagner failed to timely respond to the motion. *See* S.D. Ohio Civ. R. 7.2(a)(2). Thus, this matter is ripe for the Court’s review. For the following reasons, Plaintiff’s Motion to Strike (Doc. 16) is **DENIED**.

On May 1, 2023, the United States brought this civil action to enforce federal tax liens against certain real property belonging to Defendant Virginia Gail Wagner. (*See* Compl., Doc. 1.) After waiving service, Wagner’s Answer was due on July 10, 2023. (*See* Waiver of Service, Doc. 10.) Wagner served her Answer on Plaintiff on July 10, 2023. (Stallings Decl., Doc. 16-2, Pg. ID 79.) The Answer includes statute of limitations as a defense. (*See* Answer, Doc. 16-2, Pg. ID 82.) On July 18, 2023, counsel for Plaintiff explained to Wagner that she must file her Answer with the Court. (Stallings Decl., Doc. 16-2, Pg. ID 79.) But, Wanger has not filed her Answer or any other responsive pleading with the Court, as required by Federal Rule of Civil Procedure 5(d)(1)(A).

Plaintiff now argues that Wagner's statute of limitations defense in her Answer is barred by claim preclusion and should therefore be stricken. (Motion to Strike, Doc. 16, Pg. ID 71-74.) Federal Rule of Civil Procedure 12(f) permits courts to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." But, Wagner has not filed any pleading on the record, so there is nothing for the Court to strike. *See Fox v. Mich. State Police Dep't*, 173 F. App'x 372, 375 (6th Cir. 2006) ("The Federal Rules of Civil Procedure do not require the district court to remove documents other than pleadings from the record in a case."); *Fisher v. Cataldi*, No. 1:16-CV-605, 2016 WL 6208582, at *2 (S.D. Ohio Oct. 21, 2016) (striking an unauthorized pleading "from the record").

Thus, Plaintiff's Motion to Strike (Doc. 16) is **DENIED**.

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

By: 

JUDGE MATTHEW W. McFARLAND